

REMARKS

I. Introduction

Claims 1, 4, 6, 7, 9, and 10 have been amended. Claims 1 to 10 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are in allowable condition.

II. Rejection of Claims 1, 6, 7, and 9 under 35 U.S.C. § 112

Claims 1, 6, 7, and 9 were rejected under 35 U.S.C. § 112, second paragraph.

Claims 6 and 7, as suggested by the Examiner, have been amended to recite "in the fault condition."

In regards claims 1 and 9, claim 9 has been amended to clarify its subject matter and to distinguish it from claim 1.

Withdrawal of this rejection is respectfully requested.

III. Rejection of Claims 2 and 5 under 35 U.S.C. § 102(b)

Claims 2 and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,248,191 ("Kondo").

To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997).

Claim 2 and claim 5 recite that "when the fault occurs in one of an accumulator circuit, a pump circuit, and the first power circuit, a valve is activated at a brake actuator of a front one of the wheel brakes, the valve isolating the pump circuit from the accumulator circuit." In support of the rejection, the Examiner contends that "[w]hen there exist an electric failure, valve 11 is actuated to isolate accumulator 30 from pump 31. In column 7,

lines 38-43, Kondo discloses the condition of an electrical failure as having no electrical power supplied to coil 3. It is the same conditioned as when coil 3 is not actuated as described in column 4, lines 61-66. When coil 3 is not actuated, the spring 8 is actuated to close off the fluid passage 12a isolating the pump 31 from the accumulator 30 as described in column 5, lines 14-17 and column 5, lines 11-15.” However, the sections of Kondo cited by the Examiner actually state the following: a) “[i]n the event of a failure of the coil 3, such as a wire disconnection of the coil 3 or the electric signal transmission system of the braking system, therefore, the hydraulic pressure from the master cylinder 23 is still able to act on the wheel cylinder 27, allowing the braking system to perform its function” (col. 7, lines 38-43); b) “[w]hen the wheel 34 is braked normally, the coil 3 is not energized and hence no electromagnetic forces are produced thereby. The stepped spool 7 and the shutoff valve 11 are pressed to the left under the resiliency of the spring 8, closing the fluid passage 12a with the shutoff valve 11.” (col. 4, lines 61-66); c) “[t]he stepped spool 7 supports on its lefthand end a shutoff valve 11 which holds the chamber 36 and the fluid passage 12a out of communication with each other under the bias of the spring 8” (col. 4, lines 14-17); and d) “[t]he braking fluid does not flow from the pressure control valve 1 into the reservoir 30 because the fluid passage 12a connected through the return passage 14c to the reservoir 30 is positively closed by the shutoff valve 11.” (Col. 5, lines 11-15). Nothing in the sections of Kondo cited by the Examiner actually teaches that “when the fault occurs in one of an accumulator circuit, a pump circuit, and the first power circuit, a valve is activated at a brake actuator of a front one of the wheel brakes, the valve isolating the pump circuit from the accumulator circuit.” For at least this reason, claim 2 and claim 5 are not anticipated by Kondo.

IV. Rejection of Claim 4 under 35 U.S.C. § 102(b)

Claim 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,456,523 ("Boehringer"). Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

To anticipate a claim under § 102, a single prior art reference must identically disclose each and every claim element. See Lindeman Machinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997).

Claim 4, as amended in accordance with the Examiner's suggestion, recites that "in the fault condition of one of the wheel brakes, a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management." Boehringer teaches that "[t]he switching valves 24 thus allow the brakes to operate even though one of the hydraulic systems has failed." (Col. 4, lines 2-4). Boehringer merely teaches maintaining a normal operation of the braking system, which is completely different from the limitation that "in the fault condition of one of the wheel brakes, a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management," as recited in claim 4. For at least this reason, claim 4 is not anticipated by Boehringer.

V. Rejection of Claims 1, 3, 6, and 8 under 35 U.S.C. § 103(a)

Claims 1, 3, 6, and 8 stand rejected under 35 U.S.C. § 103(a). It is contended that these claims are unpatentable over Boehringer in view of U.S. Patent No. 5,952,799 ("Maisch"). Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). Applicants respectfully submit that this criterion for obviousness is not met here.

Claim 1, as amended in accordance with the Examiner's suggestion, recites that "in the fault condition of one of the wheel brakes, a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management." Boehringer teaches that "[t]he system has a first hydraulic system coupled to the brake of a first wheel through a first switching valve, and a second hydraulic system coupled to the brake of a second wheel through a second switching valve. Each switching valve will switch the coupled brake to the other hydraulic system, if the pressure within its system falls below a threshold value." (Col. 2, lines 7-13). Maisch teaches that "two different independent vehicle electrical systems are used, so that the braking apparatus remains at least partially operational even if one of the electrical systems fail." (Col. 1, lines 36-39). Both Boehringer and Maisch merely teach redundant control valves to ensure some level of **normal operation** of the braking system in the case of a fault, which is completely different from the limitation that "in the fault condition of one of the wheel brakes, a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management," as recited in claim 1. For at least this reason, claim 1 and its dependent claims 3, 6 and 8 are not rendered obvious by the combination of Boehringer and Maisch.

VI. Rejection of Claim 7 under 35 U.S.C. § 103(a)

Claim 7 stands rejected under 35 U.S.C. § 103(a). It is contended that this claim is unpatentable over Kondo in view of U.S. Patent

No. 6,296,325 (“Corio”). Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). Applicants respectfully submit that this criterion for obviousness is not met here.

Claim 7 depends from claim 2. Consequently, all claim limitations of claim 2 of the present application that Kondo and Corio do not teach or suggest (Kondo was discussed above in connection with the § 102(b) rejection of claim 2) are also not taught or suggested with respect to claim 7 of the present application. The combination of Kondo and Corio clearly fails to teach that “when the fault occurs in one of an accumulator circuit, a pump circuit, and the first power circuit, a valve is activated at a brake actuator of a front one of the wheel brakes, the valve isolating the pump circuit from the accumulator circuit,” as recited in claim 2. Accordingly, dependent claim 7 is not rendered obvious by Kondo and Corio for at least the reasons stated above. For at least the reasons discussed above, withdrawal of the rejection under 35 U.S.C. § 103(a) with respect to claim 7 is hereby respectfully requested.

VII. Rejection of Claims 1, 3, and 6 under 35 U.S.C. § 103(a)

Claims 1, 3, and 6 stand rejected under 35 U.S.C. § 103(a). It is contended that these claims are unpatentable over Corio in view of Maisch. Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934

(Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). Applicants respectfully submit that this criterion for obviousness is not met here.

Claim 1, as amended in accordance with the Examiner's suggestion, recites that "in the fault condition of one of the wheel brakes, a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management." Corio teaches that since brake control units "BSCU1 and BSCU2 are redundant and BSCU2 receives operating power from the power bus PWR2 (AC2/DC2), brake control operation and antiskid processing may still be carried out." (Col. 6, lines 50-54). Maisch teaches that "two different independent vehicle electrical systems are used, so that the braking apparatus remains at least partially operational even if one of the electrical systems fail." (Col. 1, lines 36-39). Both Corio and Maisch merely disclose redundant control units or electrical systems to ensure some level of **normal operation** of the braking system in the case of a fault, which is completely different from the limitation that "in the fault condition of one of the wheel brakes, a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management," as recited in claim 1. Accordingly, claim 1 and its dependent claims 3 and 6 are not rendered obvious by the combination of Corio and Maisch. Withdrawal of the rejection of claims 1, 3 and 6 under 35 U.S.C. § 103(a) is hereby respectfully requested.

VIII. Rejection of Claim 8 under 35 U.S.C. § 103(a)

Claim 8 stands rejected under 35 U.S.C. § 103(a). The Examiner contends that claim 8 is unpatentable over Corio in view of Maisch and further in view of Boehringer. Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). Applicants respectfully submit that this criterion for obviousness is not met here.

Claim 8 depends on claim 1, which recites that “in the fault condition of one of the wheel brakes, a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management.” Corio teaches that since brake control units “BSCU1 and BSCU2 are redundant and BSCU2 receives operating power from the power bus PWR2 (AC2/DC2), brake control operation and antiskid processing may still be carried out.” (Col. 6, lines 50-54). Maisch teaches that “two different independent vehicle electrical systems are used, so that the braking apparatus remains at least partially operational even if one of the electrical systems fail.” (Col. 1, lines 36-39). Boehringer teaches that “[t]he system has a first hydraulic system coupled to the brake of a first wheel through a first switching valve, and a second hydraulic system coupled to the brake of a second wheel through a second switching valve. Each switching valve will switch the coupled brake to the other hydraulic system, if the pressure within its system falls below a threshold value.” (Col. 2, lines 7-13). While Corio, Maisch and Boehringer teach redundancy in the brake control system to ensure some level of normal operation in case of a fault, these references clearly do not teach that “in the fault condition of one of the wheel brakes, a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management,” as recited in claim 1. Accordingly, claim 8, which depends from claim 1, is not rendered obvious by the combination of Corio, Maisch and Boehringer. Withdrawal of the rejection of claim 8 under 35 U.S.C. § 103(a) is hereby respectfully requested.

IX. Rejection of Claim 10 under 35 U.S.C. § 103(a)

Claim 10 stands rejected under 35 U.S.C. § 103(a). The Examiner contends that claim 10 is unpatentable over Corio in view of Maisch. Applicants respectfully submit that this rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). Applicants respectfully submit that this criterion for obviousness is not met here.

Claim 10, as amended, recites that in the fault condition of the wheel brakes "a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management." Corio teaches that brake control units "BSCU1 and BSCU2 are redundant and BSCU2 receives operating power from the power bus PWR2 (AC2/DC2), brake control operation and antiskid processing may still be carried out." (Col. 6, lines 50-54). Maish teaches that "two different independent vehicle electrical systems are used, so that the braking apparatus remains at least partially operational even if one of the electrical systems fail." (Col. 1, lines 36-39). While both Corio and Maisch disclose redundant control units or electrical systems to ensure some level of **normal operation** of the braking system in the case of a fault, neither Corio nor Maisch teaches that in the fault condition of the wheel brakes "a speed of the motor vehicle is limited by an intervention of at least one of engine management and transmission management," as recited in claim 10, which is completely different from merely maintaining normal operation of the braking system. Accordingly, claim 10 is not rendered obvious by the combination of Corio and Maisch. For at least the reasons discussed above, withdrawal of the rejection of claim 10 under 35 U.S.C. § 103(a) is hereby respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

The Office is authorized to charge any fees associated with this Amendment to Kenyon & Kenyon Deposit Account No. 11-0600.

Respectfully submitted,

KENYON & KENYON

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7/21/04

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